

BOARD OF APPEALS CASE NO. 4949

BEFORE THE

APPLICANT: Roy King

ZONING HEARING EXAMINER

REQUEST: Variance to construct a deck
within the required side yard setback;
2021 Ruffs Mill Road, Bel Air

OF HARFORD COUNTY

Hearing Advertised

Aegis: 7/14/99 & 7/21/99

Record: 7/16/99 & 7/23/99

HEARING DATE: September 8, 1999

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Roy King, appeared before the Hearing Examiner requesting a variance to Section 267-34(C), Table II, and Section 267-23(C)(1)(a)(6) of the Harford County Code, to construct a deck within the required 15 foot side yard setback in an Agricultural District.

The subject parcel is located at 2021 Ruffs Mill Road in the Third Election District. The parcel is identified as Parcel No. 155, in Grid 4-D, on Tax Map 34. The parcel contains .59 acres, all of which is zoned Agricultural.

Mr. Roy King appeared and testified that the subject parcel is improved by a single-family dwelling and that he replaced a 13 foot by 20 foot deck with a deck with dimensions of 14 feet by 21 feet, which is 6 feet from his side property line. The Applicant said he was not aware that a permit was necessary to replace an existing deck. He said the existing deck had deteriorated and because the septic reserve area is to the rear of his house, it was necessary to replace the existing deck rather than construct a new deck to the rear of the dwelling. The witness said that denial of the variance would cause practical difficulty because he would be required to remove a portion of his deck. He said he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because there is existing screening which prevents the new deck from being seen from Ruffs Mill Road.

Case No. 4949 - Roy King

Mr. Anthony S. McClune, Manager, Division of Land Use Management for the Department of Planning and Zoning, appeared and testified that the Staff has reviewed the Applicant's request and recommends conditional approval. Mr. McClune said that the location of the Applicant's well and septic system and the existence of an exit door on the side of house make the location of the deck the only practical location. He said the deck could not be located behind the house due to the septic system and a deck to the right side of the house may interfere with access to the existing well. Mr. McClune went on to testify that an existing row of trees along the property line screens the deck from adjoining properties and from Ruffs Mill Road, and that approval of the variance should have little or no impact on adjoining lots or the surrounding neighborhood.

CONCLUSION:

The Applicant is requesting a variance to Section 267-36(C), Table II, of the Harford County Code, which requires a 15 foot side yard setback in the Agricultural District. The Applicant is also requesting a variance to Section 267-26(C)(1)(a)(6) of the Code, which provides:

"Exceptions and modifications to minimum yard requirements.

(1) Encroachment.

- (a) The following structures shall be allowed to encroach into the minimum yard requirements, not to exceed the following dimensions:

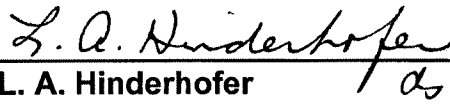
[6] Unenclosed patios and decks: up to, but not to exceed, twenty-five percent (25%) of the side or rear yard requirement for the district. No accessory structure shall be located within any recorded easement area."

Case No. 4949 - Roy King

The uncontradicted testimony of the Applicant and Mr. Anthony S. McClune, Manager, Division of Land Use Management, was that the only practical location for the deck is in its present location on the side of the Applicant's dwelling. Both the Applicant and Mr. McClune testified to constraints on the parcel which prevented the deck from being built elsewhere on the parcel. The Applicant testified that practical difficulty would occur if the variance is denied because he would be required to remove a portion of the existing deck. The evidence also indicates that approval of the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code because of the existence of screening on the parcel.

Therefore, it is the recommendation of the Hearing Examiner that the requested variance be approved, subject to the condition that the Applicant obtain all necessary permits and inspections for the deck.

Date SEPTEMBER 30, 1999



L. A. Hinderhofer
Zoning Hearing Examiner